

REMARKS

Claim Status

Claims 1-12 are pending. Claims 1, 8, and 10 stand rejected under 35 U.S.C. § 102 as being anticipated by G.B. Patent No. 1,370,296 to Pedler, hereinafter "Pedler." Claim 11 stands rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 4,992,327 to Donovan et al., hereinafter "Donovan." Claim 12 stands rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 5,023,131 to Kwok, hereinafter "Kwok." Claims 2 and 9 stand rejected under 35 U.S.C. § 103 as being unpatentable over Pedler in view of Kwok. Claim 3 stands rejected under 35 U.S.C. § 103 as being unpatentable over Pedler in view of U.S. Patent No. 5,725,821 to Gannon et al., hereinafter "Gannon." Claims 4-7 stand rejected under 35 U.S.C. § 103 as being unpatentable over Pedler.

Claims 1, 11, and 12 have been amended and claim 3 has been canceled. No new matter has been added. The amendments find support at least in the claims as originally filed.

35 U.S.C. § 102 and 103 Rejections

Independent claims 1, 11, and 12 include features that are patentable over the cited references, either taken alone or in combination, namely as represented by claim 1:

1. (Currently Amended) An insulating material comprising a non-woven blend comprising a *polyester filling fibre* and a *lyocell fibre*, the material formed into a form selected from the group consisting of a padding, a stuffing, and a filling. (emphasis added)

The invention is directed to a padding, stuffing, filling, fibreball, or wadding of polyester filling fibre and lyocell fibre. Here, the choice of lyocell goes against conventional teachings because such fibers were not normally associated with padding, stuffing, filling, fibreballs, or wadding at the filing date of this application, because such fibers tend to be flat. Furthermore, it is very significant to note that when the two fibers (the polyester and the lyocell) are blended, the resultant thermal efficiency is greater than the sum of the two components. In other words, the two fibers in the blend produce a synergistic and very unexpected effect which, it is respectfully submitted, strongly supports the contention that the

claims are non-obvious over the cited references. See for example, application as originally filed at p. 1, l. 20 – p. 2, l. 8; p. 2, ll. 11-14; and p. 4, l. 3 – p. 7, l. 10.

The cited references do not make the claims obvious. Pedler discloses non-woven fibers (e.g., using polyester, acrylic, rayon, etc.) for use as a padding. Further, Pedler discloses a blend of non-woven fibers (e.g., polyester and acrylic) for use as a padding. Pedler, however, does not disclose lyocell. As such, the examiner relies on Gannon for disclosing lyocell. The examiner cites to Gannon for teaching that lyocell has impressive tenacity and may be used for applications such as interlinings, and thus allegedly provides suggestion and motivation for combining Gannon with Pedler. An interlining is defined as a lining sewn between the ordinary lining and the outside fabric and a lining is defined as a material that lines or is used to line, especially the inner surface of something, like a garment (Webster's Ninth New Collegiate Dictionary, 1985). Therefore, the cited section of Gannon does not disclose a padding, stuffing or filling, but only discloses using lyocell as another lining material, similar to the inner *lining* of a jacket (in contrast to the *filling* of a jacket).

Further, the examiner states that it would have been obvious to use lyocell in place of the rayon fibers of Pedler to provide improved tenacity. The examiner, however, does not state why tenacity would be a desirable property for a padding, stuffing or filling, which is generally not subject to pulling forces. (Definition of tenacity being “not easily pulled apart,” Webster's Ninth New Collegiate Dictionary, 1985).

Finally, Pedler and Gannon appear to be non-analogous art as their International Classifications appear to be completely distinct as shown in the following comparison chart.

<u>Pedler</u>	<u>Gannon</u>
Int.Cl. B32B 5/26 7/02 7/12	D01D 10/06; D01F 2/02

Therefore, Pedler and Gannon are not properly combinable as they are non-analogous art. Further, a person skilled in the art of fillings would not seek to overcome any of the problems associated with Pedler by looking to Gannon because, quite simply, Gannon does not discuss or contemplate the use of such materials as fillings.

Accordingly, applicant submits that the cited references, either taken alone or in combination, do not render independent claims 1, 11 or 12 obvious. Additionally, inasmuch as dependent claims 2, and 4-10 (which have also been rejected) are dependent on claim 1,

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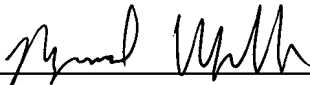
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these claims are patentable over the cited references, at least by virtue of their dependency. Accordingly, applicant respectfully requests reconsideration and withdrawal of the rejections of claims 1, 2, and 4-12 under 35 U.S.C. § 103.

Conclusion

In view of the foregoing amendments and remarks, applicant respectfully submits that the present application is in condition for allowance. Reconsideration of the application and an early Notice of Allowance are respectfully requested. In the event that the current examiner cannot allow the present application for any reason, the current examiner is encouraged to contact the undersigned attorney, Raymond N. Scott Jr. at (215) 564-8951, to discuss resolution of any remaining issues.

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